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OFFICE OF PETITIONS

Applicant: Kanji et al.
Appl. No.: 09/883,229
Filing Date: June 19, 2001
Title: COSMETIC COMPOSITIONS COMPRISING AT LEAST ONE
POLYMETHYLSILSESQUOXANE FILM FORMER
Attorney Docket No.: 05725.0537-00
Pub. No.: US 2002/0031488 A1
Pub. Date: March 14, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on May 10, 2002.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contain several mistakes, which may be material mistakes.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." The instant request does not identify a material mistake in the publication made by the Office:

The instant request identifies an error in paragraph 40 of the publication as two $-CH_3$ groups are missing from a chemical formula and in paragraph 86 two values (1.45 and 1.45) are off a line in the table.

A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The first error identified by applicant is not a material mistake by the Office because the specification as originally filed is not clear as the chemical formula is in a very small font and it is blurry. The typographical error identified by applicant is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b) because the technical disclosure including the table and the claims are understandable.

The mistake is a minor typographical error, which is clearly understandable from reading the specification and claims in which the value is used, as words and values are not read in a vacuum

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

and the value in this instance is clearly off one line in the table as "Phase D" is the label. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that he may want to consider filing an amendment replacing the chemical formula in the specification as originally filed, as many of the subscripts in the chemical formula are not legible and errors might occur in any patent that issues from the application.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

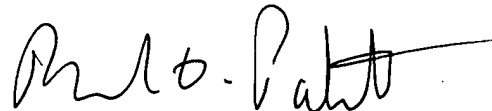
Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
 Commissioner for Patents
 Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1600 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy